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National Security Program

THE BUSINESS OF COCAINE:
ARE US EFFORTS FOCUSED FOR SUCCESS?

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John F. Kennedy School of Government

**THE BUSINESS OF COCAINE:
ARE US EFFORTS FOCUSED FOR SUCCESS?**

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Several low-cost recommendations would produce better results targeting money and, consequently, the cocaine consortia. The recommendations include:

- o making money the government's priority target in its fight against the cocaine industry.
- o focusing and unifying operational and intelligence efforts against money.
- o continuing to develop and expand international efforts against money laundering.

These low-cost, high-payoff recommendations promise long-term success against the cocaine industry.

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TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	v
PREFACE.....	vii
Chapter	
1 Center of Gravity.....	1
Possible Centers.....	2
2 Consortia Financial Operations.....	13
3 Government Initiatives.....	21
Individual Agency Initiatives.....	22
Legal Initiatives.....	28
International Initiatives.....	30
4 Recommendations.....	37
Make Money the Priority Target.....	38
Focus and Unify Efforts Against Money.....	38
Expand International Efforts.....	41
WORKS CONSULTED.....	45
Documents.....	45
Interviews.....	49



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EXECUTIVE SUMMARY

In the war on drugs, one quickly comes to understand that cocaine is a business. As such, cocaine lends itself to both military and business analyses. Its center of gravity and its key vulnerability is money. Money makes the cocaine kingpins tick.

On the supply side, the government is currently conducting a number of programs to attack the cocaine financial flows. An analysis of their three-pronged attack shows that current agency efforts against money are insufficient and uncoordinated; that legal initiatives against money laundering are doing a satisfactory job addressing the problem; and that international efforts are currently insufficient.

Several low-cost recommendations would produce better results targeting money and, consequently, the cocaine consortia. These recommendations include

- ♦ making money the government's priority target in its fight against the cocaine industry.
- ♦ focusing and unifying operational and intelligence efforts against money.
- ♦ continuing to develop and expand international efforts against money laundering.

These low-cost, high-payoff recommendations promise long-term success against the cocaine industry.

PREFACE

As we began this year, five military officers came together concerned over a national problem that continues to cost this country a great deal in pain, suffering, death, productivity and lost capital. We had heard and read a great deal about the President's broad \$10.4 billion war on drugs but had seen little of it in our day-to-day lives. Our experience was limited, particularly regarding interdiction or supply reduction, but we were interested in learning more.

Using our military background, we set out to investigate the cocaine industry from beginning to end. We also wanted to look at our government's supply-reduction efforts directed toward cocaine. Initially we were concerned by the large number of users, from ghetto sellers to white-collar workers. We were intrigued by the large amounts of cash, frequently in one-, five-, and ten-dollar bills. And we were surprised at the coordination, or lack of it, on the part of the government in its efforts to halt trafficking. The more we looked, the more we learned. The large amounts of drugs and cash slowly became real to us, and after talking to members of many agencies, we began to understand agency histories, prerogatives, priorities, and rules that made each organization unique.

Some might construe our immediate reaction as typically military: we wanted to establish a single command structure, set priorities, eliminate turf issues, and have agencies fight the problem, rather than each other. As we learned more about agencies, we learned the history (and the politics) of the drug war and were less inclined to offer quick solutions.

Still, our military background influenced our perceptions. As taught when approaching any enemy, we looked to find what made the cocaine kingpins tick. We looked for the critical item from which they drew their power, their center of gravity. In combat, the military looks for and strikes the enemy's center; success follows. We applied this theory to the cocaine trade. To find its center, we examined what we termed the "cocaine industry," from the valleys of Peru and Bolivia to the streets of New York. We discovered its center to be money. After analyzing government programs that attack cocaine money, we developed several recommendations that would permit the government to counterattack and destroy the industry.

Recently, others in government and in academe have also come to the conclusion that money is the key to the drug trade; however, their approach toward the subject is a bit different from ours. A number of credible individuals, believing that taking money out of the industry would end the profit motive and, hence, end the sales of illegal drugs, have espoused legalization or decriminalization of drug possession and use. Their argument is that not only would profits disappear, but user crime would drop as prices fell.

We examined their arguments and, while agreeing with the basic premise, rejected the ideas. First, we were concerned that, as a policy, government sanctioning of drug use would send the wrong political and moral signal to the citizenry. Second, on the practical side, the primary question for many remains one of administration. One could hardly imagine the government implementing one of these strategies without insuring that it was administered correctly. Most proponents have problems describing such a system. In addition, taxation to subsidize the administration of the program would increase the price of the legalized drugs, and black market activities would soon follow.¹

Furthermore, social problems would surely ensue. Lee Dogoloff, advisor to President Carter, spoke of a similar ban on alcohol in the 1930s. He stated that while prohibition was probably "a public policy failure," it was "a public health success."² After lifting the ban on alcohol, the number of alcohol-related health problems increased significantly. Lifting the ban on drugs would similarly increase social problems such as the numbers of addicts, crack babies, AIDS cases, and other health concerns.³ These, in turn, would drive up health costs, to say the least. In an article in the New Republic, Mark Kleiman stated that legalization was a viable option "only if you either: (1) imagine that making a product much more safe and convenient to buy and cutting its price by ninety percent won't have a huge impact on its consumption, or (2) don't care how many heavy crack users there are."⁴

NOTES

1. Harri j. Kramer, personal interview, 26 Nov. 1990.
2. Lee Dogoloff, personal interview, 27 Nov. 1990.
3. Dogoloff.
4. Mark A. R. Kleiman, "The Cocaine Blizzard: Snowed In," New Republic 23 April 1990: 16.

CHAPTER 1

CENTER OF GRAVITY

Cocaine is probably the most dangerous illicit drug currently available, causing over 42,000 emergency-room cases and over 2,500 deaths a year.¹ It accounts for approximately \$29 billion of all US illicit drug revenues, which are estimated at \$60 to \$120 billion a year.² The current US strategy to counter cocaine is broad: to apply pressure everywhere, concentrating on the drug, the producers and the users.³

Several recent studies have shown that drug use among Americans has slowed. Consequently, one must assume that the government's broad strategy is having some success, and one must be careful about recommending halting any government program for fear that that effort may have been the key to the reversal in drug use seen in the studies. However, the turnaround has been slow, and a strong counterattack against a critical point could have a devastating effect on the cocaine industry.

In any strategy, one should strive to attack the critical element, the enemy's heart. Sources from the time of Clausewitz to the latest military doctrine teach soldiers to focus force on the enemy's center of gravity, which is "the hub of all power and movement, on which everything depends."⁴ Military personnel learn that this center, once discovered, is the point to work against,

the point to defeat. In this instance, the center of gravity for the cocaine industry would have two distinct characteristics. First, it would be the industry's source of power, and second, it would be irreplaceable.

The cocaine business is similar in many ways to a multinational corporation subdivided into four components: production, transportation, distribution and financial operations. Each of these operations was examined for possible centers of gravity, and each produced possibilities. The production component yielded several seemingly indispensable elements: the cocaine product itself, in leaf, base, or cocaine form; the farm land; the key people; and the production means, more specifically, the chemicals needed to produce base and cocaine hydrochloride. Transportation produced the means of moving the drug, the money paid to carry on this operation, and the people and organizations that performed the transportation. Distribution, which included the movement of the cocaine from Colombian hands to the vendors on the street, generated money, key people, and the product as possible centers. Finally, the study of financial operations produced key people and money as indispensable elements.

POSSIBLE CENTERS OF GRAVITY

Next, the consolidated possible centers (carriers, cocaine, land, chemicals, organizations, people and money) were analyzed to see if they fit the criteria of the center of gravity. The first,

the transportation carrier, is not the center of gravity. Individual carriers as well as entire modes of transportation are easily replaced thanks to the extraordinary sums of money the industry is willing to pay for the delivered product. One woman, incarcerated in Jamaica and serving a two-year sentence, stated that she would be interested in smuggling again: "I got caught for the first time on my twelfth trip -- the money is more than worth it."⁵ In addition, there are many means of delivering drugs across US borders; planes, ships, people, and cargo containers are currently the most popular.

While the government can halt transportation in certain geographic areas for periods of time, creating short disruptions for consortia* while they make new contacts and arrangements, the fact remains that smugglers can replace any carrier means or entry point that has been interdicted. In addition, one means of transportation, cargo containers, presents a particular dilemma for the US. Each day, thousands of cargo containers are unloaded at US ports. Manpower and time limitations make comprehensive inspections virtually impossible since a typical container would take over six hours to unload, inspect, and reload. Any extensive inspection program would severely delay shipping operations. (The government currently inspects less than one percent of the containers that arrive in the country.) Consortia can absorb

*We use the term "consortia" throughout this paper because it more accurately captures the type of organization we see. Drug families do not work together to fix quantity, quality, or price, and therefore, are not literally cartels.

setbacks in this area, replace shipment modes or entry points, and continue the trade with only a minimum loss of time or effort.

The government's emphasis on interdiction suggests that many consider confiscation of cocaine a means of reducing the effectiveness of the consortia. However, cocaine and its production means are amorphous targets that are also easily replaced. While interdiction in these areas causes the consortia problems, none are serious. Steve Peterson, CIA analyst, suggests that "cocaine organizations are far overproducing narcotics for the demands of the US and others. They could probably lose 80% of their shipments and still make a profit."⁶ Mark Kleiman, drug policy expert at the John F. Kennedy School of Government at Harvard University, states, "In one recent six-week period, US domestic law enforcement agencies seized more than forty tons of cocaine, about a two-month supply for the entire country -- yet there was no shortage of cocaine."⁷ Government budgets have increased substantially, yet estimates of the percentage seized remain around 10%.⁸ Essentially, the industry has an extraordinary capacity, and consequently, seized cocaine is easily replaced. Therefore, cocaine is not the center of gravity and further government efforts focused on seizures may be misdirected.

Coca plants and the land are also not centers of gravity since there are substitutes for both. There are four major varieties of coca that grow throughout South America in various climates from that of the rugged, mountainous terrain of Peru and Bolivia to the lowland rain forests of southeastern Colombia and Amazonian

Brazil.⁹ In fact, growers have already opened new areas in the Colombian lowlands and the Amazon Basin.¹⁰ Coca plants have grown in these mountainous areas for years, and cocaine has become deeply woven into the culture of these societies. Peru, for example, has 260,000 hectares in cultivation involving 200,000 families.¹¹ In the mid-1980s coca farmers' net per-hectare earnings amounted to ten times those of a cacao farmer, ninety-one times those of a rice farmer, and nineteen times those of a citrus farmer.¹² Moreover, rebel groups such as the Maoist Shining Path in Peru and unions in Bolivia have taken up the cause of the growers for political purposes. All in all, the political and social environment is such in Bolivia and Peru that one could hardly envision a time or circumstance that would require a major shift in growing areas. In short, land is plentiful, and any attempt at plant eradication or crop substitution would most likely meet with stiff resistance and would only shift growing to other locations.

Certain precursor chemicals including ether and acetone are critical in producing cocaine hydrochloride and, therefore, were considered as possible centers of gravity. Chemical interdiction has been a concern for producers in the past; however, it seems that this is no longer the case. Because of past pressure, producers have discovered replacements for both ether and acetone. Informants have also reported that producers have resorted to other tactics, including the cleansing and recycling of chemicals and local production.¹³ Thus, these chemicals can be easily replaced.

Another focus was consortia kingpins themselves and their organizations. The government has targeted individuals with indictments; assisted other governments with intelligence, material, and training; and traced traffickers through US contacts. Extradition is the greatest fear that Colombian drug kingpins have, but it was not clear that extradition or these other efforts affect cocaine production. F. Steve Lough of the DEA states that eliminating these people disrupts the day-to-day business of the organization; however, "the disruption is short-lived since someone always bubbles up to fill the leadership void." In addition, he stated that "elimination certainly means assassination because kingpins have proven [capable] of continued influence when driven underground or even from jail."¹⁴

Professor Mark Kleiman of Harvard states that those who feel we can succeed by eliminating one man or organization assume that no new management group will emerge to continue the organization, that existing organizations cannot grow to meet unfulfilled demand, and that new organizations cannot quickly come into existence.¹⁵ The existing numbers of people and families in the consortia argue against the validity of the first assumption. The overproduction of cocaine argues against the second. Concerning new organizations, one DEA agent contends that "numerous smaller organizations are waiting in the wings to fill the production voids if any of the bigger organizations fail."¹⁶

The case of Jose Gonzalo Rodriguez Gacha's organization is exemplary. Gacha was killed in December 1989. Currently, targeted

by the Colombian police and suffering from the loss of some of the Gacha fortune through seizures, his organization is making a comeback and "will certainly be influential in the future," according to the DEA. The organization is relatively quiet at this time while a Gacha nephew consolidates his position and solves some organizational problems that occurred prior to Gacha's death.¹⁷

Tying drug production and use to the elimination of kingpins, Kleiman argues that "if there were even a single documented instance where one or a succession of high-level drug cases coincided with substantial reductions in drug consumption," the case against individuals or organizations would carry some weight. "But no such success has been reported," Kleiman concludes.¹⁸ As long as there is a monetary incentive, organizations and individuals will survive.

In fact, money surfaces in each phase of the analysis. It serves as both a motivator or incentive to those in the organization and as the lifeblood of the industry. Without the profit motive, people would not risk such dangerous employment, and without money, mundane requirements such as salaries, expenses, bribes and other costs could not be paid.

Furthermore, money subsumes motivations other than simple greed and symbolizes different things to different groups. In its simplest terms, it represents luxury, wealth and power. It is the bridge from poverty to a lifestyle that is unattainable by any other means. For coca farmers, it means a life above subsistence; for the ghetto dweller it means luxury; for the trafficker, an

escape from boredom; for consortia members, power, respect, even glory. While the objective is different for each group, the means are the same: money. For example, for many of the consortia members, social acceptance, political power, and respect are probably more important than pure cash, but money provides the means of satisfying these desires. Pablo Escobar provided lighting for the Medellin soccer stadium and housing for the poor for more than just gaining sanctuary in the city. He gained stature in the eyes of his countrymen.¹⁹ Obviously, money is critical for many of those who deal in cocaine for reasons other than just accumulating riches.

Money also is not replaceable. Once it disappears, it is gone, and somebody pays. Consortia form intricate webs of "trust" and detailed accounting systems around the money. Few handle or account for the cash. Greg Passic, a DEA money expert, estimates that 90% of consortia money is directed from the top by a small group of perhaps 15 to 25 associates.²⁰ Drug kingpins who isolate themselves from their cocaine, however, stay very close to the money derived from cocaine sales. By following the money trail, law enforcement officers gain expedited access to the top echelon traffickers.²¹ Money's unexplained disappearance causes a breach of the trust that is so important to the business of these consortia.²²

Finally, money is the lifeblood of the organization. Current profits may be extremely high, but so, too, are costs.²³ Whether paying for leaves, laboratories, transportation, distribution,

enforcement, bribes, or money laundering, delivering cocaine to the streets of New York is not cheap. Consortia leaders must have a continuous flow of cash to keep long-term operations functioning. Money is critical to cocaine operations in all of its aspects.

A number of government agents and others desire to target drug finances. Drug Enforcement Administration (DEA) consortia expert Larry Lyons states that "success requires the destruction of [consortia] power. [We should] do that through money.... Money is their lifeblood."²⁴ The Special Agent of the New York City DEA field office suggests, "The key to solving the drug problem is going after the money."²⁵ And former drug advisor to President Carter Lee Dogoloff states that "money is absolutely the right way to go. It raises the risk-benefit ratio for dealers. It raises the ante and raises it considerably. The current 10% seizure [rate] of cocaine (or even 50%) does not provide financial disincentive."²⁶ Money is the heart and must be attacked.

Thus, after an analysis of production, transportation, distribution, and financial operations, one comes to the conclusion that money is the center of gravity, the irreplaceable source of the industry's power.

NOTES

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2. Commission of the European Communities, Financial Action Task Force on Money Laundering Report, (Paris: 1990) 3.

3. White House, National Security Strategy of the United States, (Washington, DC: GPO, 1990) 7, 28-29.
4. Carl Von Clausewitz, On War (Princeton: Princeton UP, 1976) 595-596.
5. Edith Smith, personal interview, May 1989.
6. Steve Peterson, personal interview, 28 Nov. 1990.
7. Mark A. R. Kleiman, "The Cocaine Blizzard: Snowed In," New Republic 23 April 1990: 14.
8. Commission of the European Communities 5.
9. Lee 21-22.
10. Kleiman 15.
11. "Minister's Remarks on Coca Cultivation Noted," El Comercio (Lima, Peru), 5 Oct. 1990.
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13. James Moore, telephone interview, 12 Dec. 1990.
14. F. Steve Lough, telephone interview, 15 Jan. 1991.
15. Mark A. R. Kleiman, and Kerry D. Smith, "State and Local Drug Enforcement: In Search of a Strategy," (Kennedy School of Government, Harvard University, Working Paper 89-01-06, 31 Jan. 1989) 17.
16. Lough.
17. Lough.
18. Kleiman and Kerry 19.
19. Guy Gugliotta and Jeff Leen, Kings of Cocaine (New York: Simon, 1989) 97-98, 111.
20. Gregory Passic, personal interview, 2 Nov. 1990.
21. Passic.
22. Larry N. Lyons, personal interview, 28 Nov. 1990.
23. Lee 105.
24. Lyons.

25. Robert A. Bryden, Remarks to US Army War College, Roosevelt Hotel, New York City, 10 Oct. 1990.

26. Lee Dogoloff, personal interview, 27 Nov. 1990.

CHAPTER 2

CONSORTIA FINANCIAL OPERATIONS

Before evaluating government programs or this study's recommendations, one should understand the magnitude of drug finances and how these finances work in the cocaine business. Money is the critical element in the cocaine trade. If money is taken from the system, payments are not made, trust is lost, and organizations crumble.¹

Balance sheets or profit and loss statements are of limited value in this trade. The cocaine industry's financial management system ignores the fiscal controls of legitimate business. Instead, it focuses on physical control. The purpose of the system is to conceal the origins of the money and to convert it into a usable form for extracting profits and supporting continued operations.

The magnitude of the problem is immense. Total annual revenues for the narcotics business around the world approach one-half trillion dollars a year, more than three times the total US currency in circulation and more than the gross national product of all but a half dozen nations.² In 1986, the Congressional Select Committee on Narcotics Abuse and Control estimated that the US retail market was \$120 billion.³ In addition, James Mills

suggests that narcotics industry profits, secretly stockpiled in countries eager for the business, earn an improbable \$3 million in interest every hour.⁴ Most of these numbers are impossible to verify, but it is clear that the cocaine business is vast.

To comprehend these money operations, one must understand how the consortia operate. (See figure 2-1.) One of the two major consortia, the Cali operation, is very structured and centralized. Cali consortium leaders direct all operations from production to street wholesalers. They control a number of cell directors in cities throughout the US. Each cell director supervises a number of cells that are self-contained cocaine distribution centers. For example, the New York cell director probably has ten or more cells working beneath him. The cell director distributes cocaine on a consignment basis to the units and collects money from them.⁵

A city cell director, thus, faces the responsibility of getting money back to the consortium. The money initially comes from small drug sales on the streets, mostly in the form of small denomination bills. The cash then flows through a series of wholesalers until it ultimately pays for the cocaine on consignment from the Colombian distribution cells. Each city's cell director receives millions of dollars in small bills to pay for the consigned goods. The directors must dispose of these bills in such a way that the means of disposal disguises the origin of the money and, at the same time, makes it available to the consortium for support operations.⁶

In accomplishing this task, cell directors must face security problems and restrictive banking procedures designed to thwart money laundering. Predictably, the operational security of the financial flows is a major challenge. Both federal and local officials are constantly watching for opportunities to interdict or disrupt operations of what is probably the largest component of a global black market. This unwavering surveillance demands continuous flexibility and imagination on the part of cell members to ensure the security of the money. Although security of cocaine is also a concern, its relative importance is low given the industry's capacity to overproduce.

Tightly regulated banking requirements in the US also complicate matters for cell directors. Banks, jewelers, auto dealers, and other members of industry must report transactions of \$10,000 and more in cash. Thus, one can understand the problems that the consortia financiers face as they attempt to dispose discretely of hundreds of millions of dollars in small bills.

The procedures the consortia use are shown in figure 2-2. In theory the money laundering process is simple. After profiting from street sales, cell directors must "place" the funds into the banking system. This step is the most difficult and vulnerable in the process. Cell directors accomplish "placement" in several ways, including smuggling cash out of the country, mixing illicit funds with legitimate funds through front companies, and depositing cash in US banks in small amounts to avoid the currency transaction

reports (CTR). Placement is considerably easier once funds are outside the US.⁷

Once placement occurs and the cash is in the banking system, launderers move the money several times through a series of electronic fund transfers to "layer," or further disguise the origin of the funds. The objective is to "integrate" the money into accounts that consortia members can safely use to support individual or industry requirements.

The closed network of financiers, the financial flow, and the incredible volume of the money not only support money's role as the center of gravity for the consortia, but they also point to vulnerabilities that may be the most efficient way of attacking the industry. A policy analyst for the CIA states that "traffickers have advantages and capabilities that overwhelm US efforts. [Thus] efficiency of [government] effort[s] -- bang for the buck -- is important" if we are to succeed.⁸ Money offers an opportunity for such efficiency. Steve Peterson of the CIA states that "from an intelligence point of view, where can we direct our efforts to be most worthwhile? Interdiction? No. More efficiency is gained in going after the money."⁹ When law enforcement agents seize money, they affect the kingpins of the industry, not the foot soldiers we frequently confront now in our current interdiction efforts. Theoretically, more high-level arrests would result from operations targeted at interrupting the flow of money. Ingo Walter, the director of the New York University Salomon Center, writes that "funds spent combatting money laundering may produce far better

results than an equivalent expenditure on the direct enforcement of drug laws."¹⁰ Obviously, targeting money offers an opportunity for such efficiency.

An actual drug-related incident highlights the potential success of seizing money and also provides insight into financial management operations in a consortium. In an August 1989 raid, Colombian Security Forces seized a large quantity of computer discs and paper from a consortium headquarters. A task force of US experts analyzed the data and produced some 3500 documents revealing accounting data of drug lords Rodriguez Gacha and Pablo Escobar. Gacha's documents contained a detailed outline of parts of his operations, including a centralized holding company that controls vast farming, ranching and real estate resources; other legitimate enterprises properly recorded with the government; twenty-nine front companies and their relationships with a number of Gacha's relatives and associates; and finally, a listing of extensive telephone communications across the US and Europe indicating the international nature of his money laundering operations.¹¹

Further analysis of these documents and those of money launderer Mauricio Vives Carrillo resulted in the DEA's blocking over \$60 million of Gacha's funds.¹² These seizures were very disruptive to Gacha's financial organization. He was unsure how law enforcement had penetrated his financial empire resulting in orders to stop the flow of cash until Gacha was sure it was safe from seizure. During this time of financial stress, Gacha left his

envelope of safety and participated in the loading of 400 kilos of cocaine on the north coast of Colombia. He was subsequently killed in a shoot out with police.¹³ One outcome of the tracking and blocking of money is that major players take extraordinary actions. This presents targets for intelligence collectors and, hence, for the police.

Thus, the world of a consortium financier is filled with challenges as he attempts to move his large volume of profits to safe havens. Many points in the process can be characterized as vulnerabilities and offer large returns for law enforcement efforts.

NOTES

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2. James Mills, The Underground Empire (New York: Doubleday, 1986) 3.

3. Ingo Walter, The Secret Money Market (New York: Harper, 1990) 152.

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5. Lyons.

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7. Walter 162-164.

8. Steve Peterson.

9. Steve Peterson.

10. Walter 238.

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12. Director of Central Intelligence 2.

13. Passic.

CHAPTER 3

GOVERNMENT INITIATIVES

As was previously mentioned, the government's current strategy against drugs is one of applying "pressure everywhere," with \$10.4 billion budgeted over a broad spectrum of drug-related areas including both supply and demand reduction operations.¹ A number of these programs are aimed at the finances of the drug industry. Included in the administration's current strategy, the attack on drug finances contains three primary goals: the prosecution and incarceration of money launderers and members of drug organizations; the freezing, seizure, or confiscation of criminally derived assets; and the deterrence of individuals or institutions from cooperating with money launderers.² When actual government programs and actions against the center of gravity are examined, government activity concentrates in three areas: individual agency initiatives, legal initiatives, and international initiatives. The results of our study showed that current agency financial initiatives are insufficient and uncoordinated; that legal initiatives are doing a satisfactory job of addressing the problem; and, finally, that international financial efforts are currently insufficient.

INDIVIDUAL AGENCY INITIATIVES

A number of federal organizations have focused on money as a critical target in the fight against cocaine. Agencies have discovered that money is a two-pronged weapon in the battle. First, it can lead agents to the industry's kingpins, who can then be arrested. Or, regarding it as the lifeblood of the industry, government officials can disrupt and disable the industry, using seizures to drain the blood from the body of the organization.³ Most current operations are of the former type. Convictions remain the cornerstone of our government's approach to the drug war, although some operations have targeted and closed out major laundering schemes.

During the past ten years, there have been a number of coordinated efforts by the government to destroy money-laundering operations. The Internal Revenue Service and the Customs Service conducted Operation Greenback, which targeted unusually large financial transactions in Miami in 1982. Spinoffs of this strategy were Operation Tracer (raids and seizures on Puerto Rican banks) and Operations Pisces and Cashweb-Expressway (focusing on Panamanian banks laundering Colombian money).⁴ Probably the largest and best known has been Operation Polar Cap, a multi-agency investigation that uncovered the use of legitimate front businesses in many large US cities to launder drug money for the Medellin consortium. Completed in 1989, the two-year operation uncovered

the laundering of \$1.2 billion of cocaine money through gold dealers and jewelry shops.⁵

A noteworthy example of agency coordination is the Organized Crime Drug Enforcement Task Force (OCDETF). Formed in 1982, OCDETF coordinates the response of nine different federal agencies and numerous state and local law enforcement offices within thirteen different regions.⁶ The stated goal is to identify, investigate and prosecute members of high-level drug trafficking enterprises and to destroy operations of those organizations.⁷ OCDETF investigations have been effective against financial flows of drug organizations.

However, OCDETF handles only a small number of high-level cases that are referred to the task force by agencies when they feel that coordinated effort is needed. In day-to-day operations, agency activities are not so coordinated. Despite a national strategy published by the Office of National Drug Control Policy (ONDCP), there is no coordinated effort among agencies to achieve that strategy. In fact, the National Drug Policy Seminar in 1989 observed a number of shortcomings in strategy implementation. Attendees requested further definition of who was in charge of supply reduction community efforts, organizational responsibilities and span of control. In addition, they requested ONDCP to clarify guidance on the execution of the strategy and to exercise leadership to bring the strategy and its programs to fruition.⁸ Many of these coordination problems still exist, particularly in the area of drug finances, where attention has only recently been

focused. Many agencies follow money, but there is little contact among these agencies as they do their work. One individual mentioned problems getting information from both Treasury and Department of Defense agencies. This is a thought we heard expressed by several interviewees about a number of departments. In addition, organizations set their own priorities for operations, and there is no direct ONDCP line supervision over agency heads. If an ONDCP subcommittee sets priorities, the independent agencies do not have to adopt the same priorities. Furthermore, agencies run independent operations and use different procedures. OCDETF and such operations as Polar Cap are attempts to overcome these coordination difficulties.

Intelligence activities are probably most illustrative of this lack of coordination. There are currently many agencies gathering intelligence information on drugs and money operations, ranging from full-scale involvement to single representatives on agency staffs.⁹ Each has its own procedures for clearances, operations, filing, and prioritization. Difficulties ensue. Much of the coordination problem stems from two factors, one having to do with the agencies themselves and the other having to do with Americans' right to privacy. First, domestic and foreign intelligence activities serve separate purposes, and they are not designed to be integrated. Law enforcement agencies collect information that will enable them to pursue convictions, while the foreign intelligence agencies like the CIA collect it for strategic purposes. For the most part, law enforcement intelligence files cannot be accessed

except by name or case number. Some agencies have recently improved their databases or added artificial intelligence for better access and analysis; however, there is no coordinated intelligence effort among these agencies.

Also, there remains little interface between strategic and domestic databases. There are a number of reasons for this, including fear of compromise, distrust, and fear of government intrusion into an individual's privacy. Currently, most law enforcement agencies are not equipped or trained to work with highly classified information, and strategic agencies are not trained to work with sensitive criminal information. Furthermore, judges frequently require disclosure of sources during criminal trials. Agencies developing strategic intelligence are not interested in compromising ongoing international efforts to convict an individual who may have nothing to do with their operation.

In addition, laws that protect Americans' right to privacy hamper the intelligence effort against money-laundering activities. On 4 December 1981, President Reagan issued Executive Order 12333, which strictly limits the use of our nation's foreign intelligence collection capability against Americans. It further prohibited US foreign intelligence agencies from maintaining files on United States "persons," severely restricting the enormous analytic capability within these agencies that could be focused on money-laundering schemes within the United States. This Executive Order coupled with the National Security Act of 1947 constitute the existing restrictions on our foreign intelligence capability to

collect against domestic targets. The compliance inspections in this area are rigorous, and agencies are extremely cautious. Thus, any coordination on domestic targets between agencies in the intelligence community and the Drug Enforcement Administration which could have a substantial impact on drug traffickers is severely restricted.¹⁰

As long as strategic intelligence agencies are precluded from using their collection and analytic capability against United States citizens, the intelligence effort against money laundering will be less than optimal. Since money laundering activities of Colombian drug lords normally begin inside the United States, this coordination problem must be resolved if we are going to track these funds and take appropriate action.

Other federal agencies' initiatives to combat financial crimes are also distant from their objectives, despite the growing interest in this lucrative target. The Central Intelligence Agency, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Internal Revenue Service, and others have established or are establishing their own financial investigative bodies. The most promising organization is Treasury's Financial Crimes Enforcement Network (FinCEN). Although new and not fully operational, FinCEN has a budget of over \$16 million and more than 200 personnel. FinCEN uses a multi-source, multi-agency (Customs Service, FBI, DEA, Secret Service, IRS, Department of Defense, Coast Guard, and others), and multi-disciplinary (analyst, examiner, investigator) approach to financial crimes.¹¹ Initially

designed to combat all financial crimes, FincEN has evolved to concentrate on narcotics-related money. Its analysis of 20 US databases seeks to identify anomalies in certain types of financial transactions that could conceivably indicate criminal activity.¹² FincEN has developed a strategic analysis capability and artificial intelligence to target government-mandated currency transaction reports (CTR's) and currency or monetary instrument reports (CMIR's) from certain businesses and the banking industry. One objective is to identify unusual trends or circumstances that warrant investigation.

In the short term, FincEN must emphasize its multi-agency approach and must educate other agencies about its resources while increasing the number of agency users of its tactical intelligence. In the long term, FincEN must be able to generate high-level, strategic intelligence that can assist agencies in setting priorities, improve credibility with the banking industry, advise agencies on needed international agreements, and begin to expose the multitude of money-laundering methods that are available.¹³ To be truly effective, FincEN will have to overcome agency parochialism.

Thus, one sees that while there have been successes in coordination, agencies and ONDCP have a long way to go to achieve a single coordinated effort against drug money. Currently no single structure for implementing or coordinating the nation's drug money strategy exists. Under a strong hand, FincEN could fill the void. A focus on money operations does have an advantage over

other areas, in that it is relatively new. While many agencies are putting additional efforts into drug finances, agency parochialism may be less pronounced here than in more traditional areas of concentration.

LEGAL INITIATIVES

In the second area, legal initiatives, the US has done rather well lately. There are many reports of Colombian drug cells having problems getting their money into US bank accounts, legitimate businesses, or out of the country. As stated earlier, the average drug cell in a US city handles as much as \$25 million a month.¹⁴ This quantity is difficult to handle. One million dollars in \$20-bills weighs 110 pounds, an unwieldy load. To dispose of these small denomination bills, cells have resorted to a number of tactics, ranging from using large numbers of workers depositing sums under \$10,000 into bank accounts to purchasing postal money orders or Western Union wires for shipments to South America. In fact, one New York cell shipped \$140 million in cash concealed in wire spools to South America.¹⁵

Three laws in particular have had an effect on domestic money laundering: the Currency and Foreign Transactions Reporting Act of 1970 and the Anti-Drug Abuse Acts of 1986 and 1988. The Currency and Foreign Transactions Reporting Act of 1970, also known as the US Bank Secrecy Act, imposed banking standards to deter money laundering and to improve investigations of criminal and tax

violations. The Act implemented reporting requirements (CTR's) for banks and individuals allowing the government to monitor large cash transactions and the importing and exporting of currency, and it established the basis for conviction in cases involving money laundering.¹⁶ The Act also requires the identification of individuals who deposit over \$10,000 in cash.¹⁷ This law has made it more difficult for drug traffickers to deposit their funds, especially the small bills.

The Anti-Drug Abuse Acts of 1986 and 1988 contained important provisions that also attacked money laundering. The Money Laundering Control Act (the 1986 Act) finally made money laundering itself a crime. It also extended the definition of money laundering to include the activities of those who knowingly helped launder funds from criminal activities, provided government access to bank records for investigations, allowed for seizure and forfeiture of money laundering funds, and made avoidance of Bank Secrecy Act reporting a criminal offense.¹⁸

The Anti-Drug Abuse Act of 1988 further expanded government efforts against laundering activities. The Act required identification and recording of certain cash purchases of monetary instruments, and it required the filing of currency or monetary instrument reports (CMIR's) for bank checks or money orders totalling more than \$10,000 shipped in or out of the country.¹⁹ It also allowed the Treasury to target geographical areas for additional reporting if Treasury feels it is needed; it significantly increased criminal, civil, and forfeiture sanctions

for laundering crimes, and it directed Treasury to negotiate bilateral international agreements covering the recording of large US currency transactions and the sharing of information.²⁰

These laws rely heavily on the reporting of many institutions including banks, jewelry stores, car dealers, and post offices. Indications are that these domestic requirements are working rather well. But, as one would expect, as domestic laundering decreases, international laundering seems to increase. Thus, international agreements become more important.

INTERNATIONAL INITIATIVES

It is essential to focus on the movement, identification, and location of cash before it is converted into other monetary instruments or moved via electronic fund transfers. Once the currency is converted, international movement is easy and the possibility of detecting dirty money decreases dramatically.

International initiatives to counter money laundering began in 1980, when the Committee of Ministers to the Member States of the Council of Europe adopted recommendations against the transfer and sheltering of criminally obtained funds.²¹ This appears to have been the first multilateral attempt to identify the magnitude of the perceived money-laundering problem and to alert the member nations to the flow of cash across their borders.

The US arrived on the international scene with the Kerry Amendment, Section 4702 of the Anti-Drug Abuse Act of 1988. This

Section encouraged the US to seek bilateral agreements that would require cooperation by foreign banks in money-laundering cases by providing records and information on transactions with US currency.²² Furthermore, if countries failed to negotiate these agreements in good faith within two years, the US could impose sanctions (for example, foreign banks from that country could be restricted from having branches in the US). While many countries read this amendment as interference in domestic issues, it clearly demonstrated to the international community the level of US concern about money laundering.²³

Perhaps the most important international statement came from the United Nations Convention Against Illicit Narcotic Drugs and Psychotropic Substances in December 1988. Known as the Vienna Convention, it focused on drug trafficking in general and set forth many principles regarding drug money laundering. It included the following points:

- ♦ Money laundering derived from drug trafficking must be criminalized with imprisonment and fines.
- ♦ Countries must develop internal, coordinated measures to identify, freeze, and seize drug proceeds.
- ♦ International cooperation must be enhanced to facilitate international investigations by providing necessary bank records and documents.
- ♦ Laundering must be an extraditable offense.
- ♦ National training programs must be developed to alert and prepare employees of financial institutions.²⁴

The US ratified this convention on 22 November 1989, and it became effective internationally in November 1990. Presently, more than 80 nations have signed the convention, but transformation of its requirements into national law may pose serious problems for many countries because of inadequate infrastructure in their banking and currency control systems.²⁵

Concurrent with the UN Convention, another important international instrument was prepared, known as the Statement of Principles of the Basel Committee on Banking Regulations and Supervisory Practices (or more commonly the Basel Statement of Principles). Membership includes the seven major industrial nations of the world and other nations with particular expertise in fighting money laundering. While this document does not have any legal basis for enforcement, it expresses the international concern about money laundering and suggested methods to combat this practice. In truth, most of the participating nations had already initiated actions to set these principles in motion, but again, this action emphasized the serious intent of the international community.²⁶

At the Economic Summit in Paris in July 1989, the Group of Seven (G-7) major industrialized nations and other interested countries, recognizing the scope of the international drug problem, convened a Financial Action Task Force (FATF).²⁷ The role of the task force was to evaluate the international efforts and cooperative actions taken thus far to prevent the misuse of banking systems and financial institutions. It also considered additional

recommendations to improve preventive efforts in a multilateral sense. The task force provided an excellent opportunity for money-laundering experts to interact and compare details and suggestions of their home countries' programs. In the long term this effort will undoubtedly lead to consistency in laws and in enforcement. The task force issued a comprehensive list of 40 recommendations in three major categories:

- ♦ improvement of national legal systems;
- ♦ enhancement of the role of the financial system in the detection of money laundering activities; and,
- ♦ the strengthening of international cooperation.²⁸

Similar to the Vienna Convention and the Basel Statement of Principles, the most pertinent recommendations emphasized criminalizing money laundering; seizure and forfeiture of assets; strict penalties; detailed identification of bank clients; reporting and record-keeping requirements; training programs for financial institutions; and classifying money laundering as an extraditable offense. The Department of the Treasury was the lead agency for the US and, in the future, will continue to seek increases in the number of signatory nations.²⁹

Important actions are beginning to take place in different regions. The Caribbean Action Task Force is a subcommittee of the FATF. It accepted FATF's 40 recommendations and designed an additional 20 to combat money-laundering operations in their geographic area. Unfortunately, these recommendations are rather

complicated and very difficult to implement without a powerful, established infrastructure in the participating country.³⁰

Another regional effort is the Comision Interamericana para el Control del Abuso de Drogas (CICAD), under the Organization of American States with US Department of Justice leadership. While in its infancy, the inter-American drug abuse commission has held meetings to address the money-laundering problem and will soon suggest model regulations for reporting and recording financial transactions within the context of the Vienna Convention.³¹

In summation, there are many international organizations and programs in place or in various stages of development that devote a great deal of effort toward the money-laundering problem. The UN Convention and the aforementioned documents attempt to address every conceivable vulnerability in the money flow process and encourage all nations to do the same in a coordinated manner with a minimum of legal restrictions.

While these efforts are a solid beginning, the US and others have a long way to go in sharing information, cooperating on criminal cases, improving domestic laws, and reporting transactions. Regional agreements offer the best hope now because they are attuned to the needs, infrastructure, and particular problems of an area.

The US must vigorously pursue regional as well as international agreements and work hard to close off the many remaining safe-haven nations with very strict secrecy provisions, no money laundering controls, and no taxes imposed on foreign

exchange accounts. As long as such havens exist, there will be currency flight across US borders.

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CHAPTER 4

RECOMMENDATIONS

Current government initiatives point to a number of conclusions. Despite several successful operations and OCDEF, independent agencies still pursue their own objectives with their own procedures. Greater integration of efforts in the pursuit of the ONDCP financial strategy is needed. Legal initiatives in the financial sphere seem to be discouraging domestic money-laundering, although money-laundering is still a problem. As domestic techniques begin to succeed, more money will move outside US borders. Continued efforts are needed on the international scene to eliminate money havens. Based on our study, we make several recommendations:

- ♦ Make money the priority target in the fight against the cocaine industry.
- ♦ Focus and unify operational and intelligence efforts against money.
- ♦ Continue to develop and expand international efforts against money laundering.

The recommendations are straightforward, but have broad implications.

MAKE MONEY THE PRIORITY TARGET

Making money the top priority in government efforts may have serious repercussions. Most law enforcement agencies currently give top priority to convictions or cocaine seizures. Budgets and promotions are based on numbers of convictions or amounts of cocaine seized and related statistics. Therefore, this recommendation has serious repercussions for many agencies. It means that measures of effectiveness will have to change and that investigations may end early if the opportunity to seize large quantities of money occurs. It also signifies that more investigations will track cash flows and that more intelligence assets may be focused on money and money trends. In addition, it means that the judicial system will have to shift priorities to accept a greater workload of financial cases, but the payoff here would probably be higher. Agents and judges would spend more time dealing with higher-level criminals rather than the street dealers they see now.

FOCUS AND UNIFY EFFORTS AGAINST MONEY

Second, in order to accomplish the objective of actively tracking money, the government must focus and unify efforts in this relatively new area. Currently, money, people and technology are moving into financial operations. The danger exists that without direction from above and cooperation from below, the opportunity to

develop a coherent, meaningful, coordinated effort will be lost. ONDCP and its subcommittees currently do not have the budget authority or the organizational control to make this kind of shift of priorities or to overcome agency parochialism. One individual must be in charge of financial efforts with backing from the highest levels. In fact, the current youthful stage of financial development is a distinct advantage. Agency bonds are not as developed in the financial sector as they are in other areas. A firm hand can still pull the effort together.

This is no small task. Even the weak ties that some agencies have to their money operations may be tough to break, but a single authority must guide the activities against this center of gravity. This authority must have access to both strategic and domestic intelligence and be able to unify all agencies' efforts against drug finances. Tasks involved in this effort include intelligence gathering and analysis, strategy development, resource control, and priority setting.

As noted earlier, the drug intelligence community has major shortcomings. The financial authority must establish a unit that can integrate strategic and law enforcement intelligence. The two areas are not mutually exclusive, although current treatment by agencies assumes that they are. The integrating unit must have the capability of handling intelligence from the Central Intelligence Agency and the Defense Department. It must also have access to and an ability to recall domestic crime information. This is currently impossible in most law enforcement agencies unless the point of

access is a name or case number. Databases are not set up to receive other search variants. A strong argument can be made to combine the law enforcement databases of the FBI, DEA, Customs and IRS, while providing a more analytic approach to the retrieval process. While law enforcement and strategic data bases need not be combined, the drug intelligence unit must have access to both. The unit must also have the capability to analyze current financial trends provided by commercially available institutions.

In order to use fully all means at its disposal, the federal government should eliminate restrictions that inhibit the US foreign intelligence efforts against drug intelligence targets. The 1947 National Security Act and Executive Order 12333 should be broadened to allow our intelligence agencies to collect drug-related intelligence and maintain analytic files on United States "persons" under suspicion of drug crimes. The objective is not to deny privacy to Americans, but to allow our foreign intelligence agencies to assist in destroying the cocaine industry's financial center of gravity. Further study is needed in this sensitive area.

In addition to gathering or consolidating financial intelligence, the unit must be capable of analyzing it and providing recommendations on the means of attacking money targets. Given agency concerns for safety of sources, for safeguarding materials, and for budgetary survival, this plan may sound a bit farfetched; however, an institution whose capabilities and charter approach the ideal is already being established. Treasury's FincEN has much of the domestic database in place and within a few years

will have more than 100 databases on line. Under the purview of a leader with broad powers and Presidential support, FincEN could expand its Treasury-based charter to include the other data sources mentioned earlier. With a focus on money (drug money, specifically), FincEN could begin analysis that would provide a sound strategy for attacking drug finances. Based on its recommendations, the financial authority would coordinate priorities for enforcement agencies, and the federal government could seek broader international accord on money laundering.

EXPAND INTERNATIONAL EFFORTS

Third, current international efforts are critical steps to stopping money from escaping to overseas havens. The federal government should continue ongoing negotiations in as many agencies as possible and continue seeking bilateral agreements to the extent it can. The Latin American and Eastern European regions have to be high priority areas, the former because it is the place where most drug money laundering is done and the latter because it is an area in dire need of cash and is a lucrative target for cocaine monies. The US should encourage regional negotiations because banking practices and the level of sophistication in banks is likely to be more easily addressed in these forums.

In addition, all nations must allow the exchange of records of financial institutions and individuals suspected in money laundering. Where this requires amendments to existing privacy and

secrecy laws, changes should be sought. Nations should also be encouraged to share intelligence data and information in order to destroy the large drug organizations.

If international money laundering continues despite these recommendations, we recommend a further step: prohibiting foreign banks from accepting cash dollar deposits without the approval of the Federal Reserve. Greg Passic, a DEA money specialist, stated that the drug trade was the only business in the world that needed to send cash outside the US.¹ If international efforts fail to reduce laundering, we recommend a policy that prohibits the Federal Reserve from accepting dollars from foreign banks. After an initial transfer period, no cash would be allowed back into the country through the Federal Reserve System. Since almost all international transfers are currently accomplished with electronic fund transfers, business and trade would continue as usual. Travelers would be forced to change money or buy travelers checks prior to departure or would be allowed to purchase small amounts of foreign currency overseas through US banks or banks that support US reporting requirements. This proposal requires extensive coordination and additional research and would come at some cost, but it is a feasible option that promises immediate impact. It could be a relatively low-cost solution to eliminate the scourge of drugs in our society.

In conclusion, these recommendations, when implemented, would constitute a potent counterattack against the cocaine industry. The key to success in this effort (and possibly in the effort

against other illicit drugs) is a firm guiding hand and a unified attack. These recommendations are made within the constraints of this paper, and, while they stand alone, there are areas that warrant further study. Some of these include

- ♦ the procedures for unifying priorities among drug-fighting agencies;
- ♦ analysis of other drug industries to see if they are susceptible to attacks on money;
- ♦ law enforcement database integration;
- ♦ intelligence coordination procedures;
- ♦ effects on the government bureaucracy of a money-focused drug strategy;
- ♦ strategic intelligence and Americans' right to privacy; and,
- ♦ the impact of prohibiting the Federal Reserve from receiving cash from overseas.

NOTES

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